

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:05CR003 RWS
)	
BRIAN L. CAYCE,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Mr. Cayce pled guilty to one count of possession of narcotics under 21 U.S.C. § 841. In accordance with the plea agreement, Cayce agreed to forfeit \$ 21,350 in drug-related money.

Cayce is the father of Kayla Smith. Kathryn Smith is Kayla's mother. Smith has filed a notice of claim to the forfeited \$ 21,350. Smith has introduced evidence that Cayce owes her \$ 23,340 in overdue child support payments.

The Government objects to Smith's claim on the basis that Smith does not have standing to bring a claim under 21 U.S.C. § 853(n).

The Government is correct that Smith has not alleged sufficient facts to bring a claim under 21 U.S.C. § 853(n). To allege sufficient facts under 21 U.S.C. § 853(n), Smith must bring forth more than a Child Support Order. She must produce an order, judgment, or lien that would show that she has a specific ownership interest in the money that was forfeited.¹

¹ Specifically, that statute requires that Smith "establish[] by a preponderance of the evidence that--
(A) [Smith] has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

I will allow Smith to amend her claim to allege sufficient facts, if they exist, to demonstrate standing under 21 U.S.C. § 853(n). Smith must do so no later than December 21, 2005. If Smith does not amend her claim, it will be dismissed.

Accordingly,

IT IS HEREBY ORDERED that Smith must amend her notice of claim no later than **December 21, 2005**.

Dated this 8th day of December, 2005.

A handwritten signature in black ink, appearing to read "Rodney W. Sippe", written over a horizontal line.

RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE

(B) [Smith] is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonable without cause to believe that the property was subject to forfeiture . . .”